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Chairman: Mr. Pulido León (Vice-Chairman) ..... (Venezuela)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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In the absence of Mr. Kmoníček (Czech Republic), Mr. Pulido León (Venezuela), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 121: Programme budget for the biennium 2004-2005 (*continued*)

Request for a subvention to the Special Court for Sierra Leone (A/58/733)

1. **Mr. Sach** (Director of the Programme Planning and Budget Division), introducing the report of the Secretary-General containing a request for a subvention to the Special Court for Sierra Leone (A/58/733), said that the report had followed an exchange of letters between the Secretary-General and the President of the Security Council (S/2004/182 and S/2004/183) on the financial difficulties faced by the Special Court with regard to its third year of operations. The report set out the overall level of resources required for the period from 1 July 2004 to 31 December 2005 and contained a request for a subvention of up to $40 million to supplement voluntary contributions, including those that had been pledged but not yet collected, which were considered insufficient to complete the work of the Court.

2. The Court had been established by Security Council resolution 1315 (2000) as an independent Special Court to be funded through voluntary contributions. From the outset, the Secretary-General had maintained that the only realistic solution was for the Court to be financed from assessed contributions. Nevertheless, the Court had been established on the basis of voluntary contributions. To date, some $49 million had been contributed, an amount that would carry the Court through to the end of its second year of operations, on 30 June 2004. For its third year of operations, the Court anticipated a shortfall of approximately $28.2 million.

3. To complete the work of the Court, approximately $30 million was needed for the financial period from 1 July 2004 to 30 June 2005. During the six-month period beginning 1 July 2005, an estimated $10 million would be required in connection with the completion of the mandate of the Court. Of the $40 million being sought, including the funds that had already been appropriated, $16.7 million would be for the period from 1 July to 31 December 2004, to be charged against the provision for special political missions under section 3 (Political affairs) of the programme budget for the biennium 2004-2005.

4. The Secretary-General would report to the General Assembly at the main part of its fifty-ninth session on action required for appropriation of the balance of requirements, of up to $23.3 million, for 2005. The proposals with respect to the subvention reflected the necessity for the Assembly to take account of the independent nature of the Court, which had already indicted 11 persons. For that reason, the proposals before the Committee had been presented as a request for a subvention, which would allow the Court to continue its operations within the independent framework established by the Security Council and reflected in the Agreement between the United Nations and the Government of Sierra Leone.

5. **Mr. Kuznetsov** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) introduced the Advisory Committee's report on the request for a subvention to the Special Court for Sierra Leone (A/58/7/Add.30). The Court had been established on the basis of voluntary contributions and on the understanding that the Secretary-General would not be expected to create any institution for which he did not have adequate funds in hand for at least 12 months and pledges to cover anticipated expenses for a second year of operation. It appeared, however, that available voluntary contributions would carry the Court only to the end of its second year of operations (30 June 2004). Accordingly, the Secretary-General proposed that a subvention of up to $40 million should be made available to the Court, $16.7 million of which would be for the period from 1 July to 31 December 2004.

6. It would be for the General Assembly to decide whether or not a subvention to meet the expenses of the Court should be made from the assessed budget of the Organization. Other considerations, including the impact of a contribution by the membership as a whole on efforts to seek further voluntary contributions, should also be borne in mind.

7. Extreme time constraints had prevented the Advisory Committee from conducting a detailed examination of the estimates. Under the circumstances, should the General Assembly decide to contribute towards the expenses of the Court, the Advisory Committee recommended that commitment authority

should be granted in an amount not exceeding $16.7 million. The authority, if granted, would be administered along the lines spelled out in paragraph 13 of the report of the Secretary-General. The Advisory Committee would provide a detailed recommendation to the Assembly as to the level of financial assistance and options for financing.

8. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries Bulgaria, Romania and Turkey, the stabilization and association process countries (Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia) and, in addition, Liechtenstein and Norway, said that the European Union endorsed the proposal to give commitment authority in the amount of $16.7 million to the Court.

9. The European Union acknowledged the important role that the Special Court was playing within Sierra Leone to bring to justice those most responsible for the atrocities committed in the conflict in that country and its significance to the efforts to fight impunity in the region. The fact that the Court was located in Freetown made it unique among the currently constituted international judicial bodies in that it was based in the country where the crimes had been committed. It was therefore essential for peace and stability within Sierra Leone and the region that it should not be allowed to fail through insufficient funds from the international community. In that respect the European Union supported the Secretary-General's proposal for a one-time ad hoc subvention to cover funding shortfalls in the remainder of 2004 and, if necessary, also in 2005. The case was an exceptional one and the international community should reappraise the whole financing of such international institutions.

10. Experience had shown that accurate forecasting for the United Nations International Criminal Tribunals was a difficult matter. In the future, the international community should secure a sound basis for the financing of international courts before their establishment. While the judicial process could not be fully directed or controlled by administrative oversight bodies, all organs of the Court, within the constraints imposed by the judicial process, should respect the time-limited mandate established by the Security Council and make every effort to complete their work within the three years envisaged and the allocated budget. Given that the proposed subvention had made some contingency provision for possible time overruns of the Court, she hoped that the request for a subvention would be a one-off case. The European Union also concurred with the Secretary-General's view that the fundamental nature of the Court should not be altered. Efforts should therefore continue to secure further voluntary funds and the international community should redouble its efforts to that end.

11. **Ms. Lock** (South Africa), speaking on behalf of the African Group, said that the creation of the Special Court was a practical demonstration of the international community's support for strengthening the administration of justice in Sierra Leone, as a critical part of Sierra Leone's national reconciliation and of the broader peace process. The Special Court's hybrid jurisdiction of international humanitarian law and the relevant national laws of Sierra Leone was a model of justice and a unique effort on the part of the international community to prosecute persons who bore the greatest responsibility for the most serious crimes committed in Sierra Leone.

12. In that respect, the African Group recalled the Secretary-General's own preference for the Special Court to be financed from assessed contributions from Member States to afford it secure and continuous funding. That sentiment had been shared by several Member States. Security Council resolution 1315 (2000), however, had approved a financing mechanism based on voluntary contributions from Member States.

13. The Group had taken note of the current status of voluntary contributions pledged and received. It was concerned that the cash balance of $1.8 million available to the Special Court would be adequate to finance the operations of the Court only up to the end of May 2004, at a time when trial proceedings were set to begin in earnest. That might jeopardize the continuing operations of the Special Court and have a negative impact on the peace process in Sierra Leone. It was therefore imperative to ensure that the proceedings suffered no disruptions, as their successful conclusion would illustrate the African Union's unequivocal stance against impunity and serve as a deterrent to human rights abuses elsewhere. The Committee should therefore take early action on the item.

14. The African Group gave sympathetic consideration to the Secretary-General's request for funding of up to $40 million to supplement the financial resources of the Special Court, which would enable it to complete its mandate by December 2005, without prejudice to its independent character.

15. In that connection, the Group stood ready to discuss the details of the Advisory Committee's recommendation to grant the Secretary-General commitment authority in an amount not exceeding $16.7 million, to be disbursed on an incremental basis.

16. **Mr. Ozawa** (Japan) said that his Government attached great importance to the consolidation of peace in post-conflict Sierra Leone and supported efforts to promote disarmament, demobilization and reintegration, national reconciliation and good governance in the country. Japan had already extended a substantial amount of assistance to Sierra Leone, including a contribution of 960,000 dollars in 1998 to the United Nations Development Programme Trust Fund for Demobilization, Reintegration, Rehabilitation and Recovery in Sierra Leone; 3.09 million dollars in May 2001 to the United Nations Trust Fund for Human Security for the reintegration of ex-combatants; and 300 million yen in December 2002 to promote cooperation between Japan and the United Kingdom in the area of conflict prevention.

17. In view of the importance of prosecuting crimes against humanity committed during the internal conflict and in response to the appeal by the Secretary-General, his Government had also contributed $500,000 to the establishment of the Special Court for Sierra Leone. However, based on the shared recognition by Member States that the International Criminal Tribunals for Rwanda (ICTR) and the Former Yugoslavia (ICTY), which were financed from assessed contributions, had both resulted in substantially higher than expected expenses for Member States and in order to reduce costs and promote greater efficiency, Member States had decided to finance the Special Court through voluntary contributions. His Government regretted the shortfall in voluntary contributions, but was concerned about the impact of a possible subvention on efficiency and further efforts to reduce costs, especially since the completion strategy for the Special Court was still unclear.

18. In view of those considerations and of the steady increase in the size of the regular budget, the failure to set strict priorities among United Nations activities and the possible negative effect that such a subvention might have on many activities funded through voluntary contributions, his Government, as a matter of principle, could not support the idea of a subvention from the regular budget. In order to prevent the Special Court from failing, the Security Council, which was instrumental in its establishment, should play a role in mobilizing the necessary voluntary contributions. Simply put, those countries that were in a position to make certain decisions should assume corresponding responsibilities.

19. Member States that supported the subvention proposal should consider setting a number of conditions. The subvention should be a one-off measure, and every effort should be made to ensure that all funding for 2005 and beyond would be covered by voluntary contributions; the subvention should not constitute a precedent for other cases; a clear completion strategy for the Special Court should be set in place; and the Security Council should monitor the situation and urge its implementation, as necessary.

20. **Mr. Herrera** (Mexico) said that crimes against humanity, war crimes and other serious violations of international humanitarian law must not go unpunished. The Special Court, which had done commendable work for the previous two years, was very important for the reconciliation process in Sierra Leone. His Government had done what it could to contribute to the maintenance of the Court and was concerned at the lack of sufficient funds for its operations after June 2004. It regretted that the Secretary-General's high-level efforts had not resulted in the payment of pledged contributions.

21. Given the importance of the Tribunal's work, his delegation supported the recommendation contained in paragraph 9 of the report of the Advisory Committee. However, all of the resources should come from voluntary contributions. The Secretary-General should continue to work towards that goal and keep the General Assembly informed of his progress.

22. **Mr. Iosifov** (Russian Federation) said that his delegation had noted the information that had been provided to Member States on the activities of the Special Court and on plans to help it to operate effectively in the future. The Court played a vital role in bringing to justice those accused of crimes against

humanity, war crimes and other serious violations of international humanitarian law in Sierra Leone.

23. His delegation was concerned at the Court's precarious financial situation, as article 6 of the Agreement between the United Nations and the Government of Sierra Leone had provided for its expenses to be met from voluntary contributions. The report containing the request for a subvention from the Organization's regular budget had not explained why available voluntary contributions would carry the Court only to the end of its second year of operations. Nor had it explained why the Secretariat's original expectation that voluntary contributions made or pledged should be sufficient for three years of operation had proven to be incorrect or whether alternatives to funding from the regular budget had been investigated when it became clear that the Special Court could not operate with the current low level of voluntary contributions.

24. Efforts to mobilize more voluntary contributions for the Court might stop completely if funding were provided from regular budget funds, thereby setting an unwelcome precedent for the unjustified transfer to Member States of the financial burden for independent international bodies like the Special Court.

25. The report of the Secretary-General, moreover, had not provided enough information, particularly on the Court's completion strategy, to enable the General Assembly to decide whether or not to grant a subvention. Nor had it provided any assurance that no further appeals would be made for regular budget funds for the Special Court. Questions also remained about the functioning of the Court's Registry.

26. The General Assembly had scrutinized and proposed changes to the budgets of ICTR and ICTY in order to save costs and promote completion of their work, but it had not once examined the budget of the Special Court for Sierra Leone. Fuller information on the subject was needed. His delegation was prepared to discuss the item constructively and hope to receive full answers to questions raised.

27. **Ms. Buchanan** (New Zealand), speaking also on behalf of Australia and Canada, said that the Assembly had been asked to provide a subvention to the Court at a critical time. The delegations on whose behalf she spoke were ready to support the Secretary-General's proposal for a subvention because of the Court's vital work, the need to secure its operation and the immediate nature of the request. They took note of the Secretary-General's explanation that it had proven impossible to mobilize enough further voluntary contributions to enable the Court to complete the discharge of its mandate as well as the reiteration by the Security Council of the importance it attached to the purposes of the Special Court and that it had no objection to supplementing voluntary contributions with assessed contributions.

28. The prudent proposal of the Secretary-General and the Advisory Committee to allocate the sums required in two stages would enable Member States to meet the Special Court's immediate financial needs, but also to examine its financial needs for 2005 before releasing the balance of the appropriation. When the Committee reverted to the issue of the Special Court at the Assembly's next session, it should have before it more financial information and a definitive exit and completion strategy for the Special Court. In the meantime, Member States had an immediate obligation to ensure the viability and smooth operation of the Court and the best means to that end was the subvention proposed by the Secretary-General.

29. **Ms. Nakian** (United States of America) said that the United States of America had been a leading proponent of the Special Court and one of the principal financial contributors. The Court had made commendable progress in bringing to justice those who bore the greatest responsibility for the terrible crimes committed in Sierra Leone and was a pillar in consolidating lasting peace and reconciliation in that country. The fact that it was situated in the country in which the conflict had taken place made it even more significant.

30. The Court's work was at risk if sufficient funding was not secured for its third year of operation. His Government had hoped for enough voluntary contributions to sustain it, since without a subvention or significant voluntary contributions, the Court would face insolvency just as trials were about to begin. The international community could not let it fail, because to do so would send a negative message to those struggling to combat the culture of impunity and would undermine respect for human rights and international humanitarian law. The President of Sierra Leone had appealed to the Secretary-General in 2002 to establish the Special Court. Allowing it to close its doors would be a betrayal of the people of that country.

31. The Court had shown that it could work quickly and cost-effectively and remained a good model of an independent, effective and efficient tribunal, having benefited from the lessons of ICTR and ICTY. The United States of America supported the Secretary-General's request for a subvention to bridge the shortfall in voluntary contributions and his position that the subvention should not affect the Court's independence and structure.

32. **Mr. Park** Yoon-june (Republic of Korea) said that his delegation acknowledged the valuable role of the Special Court and hoped that, following the indictment of 11 individuals, trials and appeals would proceed as envisaged in the report of the Secretary-General.

33. The report of the Secretary-General, however, provided no financial information or details of management issues for the first year of the Court's operation. Without a full understanding of the financing and management of the Court, his delegation would find it difficult to accede to the request for a subvention, especially since it believed that the Court had too many staff for the nine persons to be tried. The Secretariat should inform the Committee of the job descriptions of those staff.

34. His delegation was also concerned at the lack of an exit plan. Member States had been told only that the trials and appeals should be completed by December 2005, but did not know the basis for that estimate. Certain factors could prolong the operation of the Court and a fourth or fifth year of operation was possible. It would be useful to know how the Secretariat would arrange financing in such a case.

35. Since the Court had been established on the basis of voluntary funding, changing the mode of financing to regular budget subventions might negatively affect future decisions by Member States to establish international courts. To prevent that, the Committee should seek a solution that could be accommodated within the existing provision for special political missions under section 3 (Political affairs) of the programme budget for the biennium 2004-2005, without creating an extra burden for Member States. Furthermore, the principle of using voluntary contributions to finance the operation of the Court should be upheld and efforts should continue to secure such contributions.

36. **Mr. Obame** (Gabon) recalled that the international community had welcomed the establishment of the Special Court for Sierra Leone as a major step towards the end of impunity for those who violated human rights and international humanitarian law, especially those who had perpetrated atrocities and serious crimes in Sierra Leone during the last 10 years of its deadly civil war. His delegation welcomed the voluntary contributions that had already been made and invited all other partners to come forward and support the Special Court.

37. Since its establishment, the Special Court's difficult financial situation had hindered its work. Taking into account the level of the subvention suggested by the Secretary-General and the views of the Advisory Committee, his delegation advocated a substantial subvention through assessed contributions in order to ensure viable and secure funding that would allow the Special Court to prosecute the perpetrators of heinous crimes against civilians, including children, in Sierra Leone.

38. **Mr. Rowe** (Sierra Leone) said that his delegation wished to add its encouragement for speedy and positive consideration of the matter of the Special Court. Any delay would negatively affect the Court's operations, lengthen its mandate and result in additional expenses. It would also cast a shadow over the objectives and commitment of the international community to deal decisively with ending impunity. Like the struggle against terrorism, the administration of justice was not cheap.

39. The Special Court, as a unique institution in international humanitarian and human rights law, must not be allowed to fail, especially midway through its business. The Court was special for Sierra Leone and special for the international community. It was already operating, so the time was not right to engage in a debate about its financing. His delegation thanked the Advisory Committee for the recommendation contained in paragraph 9 of its report and hoped that the Fifth Committee would respond accordingly.

40. **Ms. Santos-Neves** (Brazil), supported by **Ms. Samayoa-Recari** (Guatemala), welcomed the Special Court's progress and the beginning of the trials process. The Court's activities had reached a crucial stage and must not be jeopardized. She supported the recommendations of the Advisory Committee.

41. **Mr. Alarcón** (Costa Rica) said that the Special Court must have uninterrupted funding to enable it to administer justice in the region. His delegation agreed with the views expressed by the representative of South Africa on behalf of the African Group. Violations of international human rights law around the world must be addressed and the work of the Special Court was therefore of vital importance.

42. Member States that had made voluntary contributions should be commended and the Secretariat should continue to seek further contributions. He hoped that the next report of the Secretary-General would explain the Court's completion strategy.

The meeting rose at 11.05 a.m.